

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**PLAINTIFF'S MOTION FOR LEAVE TO FILE
FIRST AMENDED COMPLAINT**

Plaintiff Marshall Packaging Company, LLC files this Motion for Leave to File First Amended Complaint. A copy of the First Amended Complaint is contemporaneously filed herewith.

The First Amended Complaint adds a new defendant, Pepsi-Cola Metropolitan Bottling Company, Inc. (“Metro”), to the lawsuit. On or about February 26, 2010, The Pepsi Bottling Group, Inc. merged with and into Metro, with Metro continuing as the surviving corporation. Given the status of the case, this should not result in any delay of the proceedings or work to the prejudice of any party. Moreover, Plaintiff contends that it is in the interests of judicial economy to have all the prospective defendants consolidated in one case rather than separated into multiple lawsuits.

Dated: March 10, 2010

Respectfully submitted,

By: /s/ Donald Puckett

Donald Puckett
Attorney-In-Charge
State Bar No. 24013358
dpuckett@thewarefirm.com
Leslie D. Ware
State Bar No. 00785179
lesware@airmail.net
Mark W. Born
State Bar No. 24034334
mborn@thewarefirm.com
Eric S. Tautfest
State Bar No. 24028534
etautfest@thewarefirm.com
George T. Scott
State Bar No. 24061276
gscott@thewarefirm.com
THE WARE FIRM
2101 Cedar Springs Road, Suite 1900
Dallas, Texas 75201

T. John Ward, Jr.
Texas State Bar No. 00794818
WARD & SMITH LAW FIRM
P.O. Box 1231
Longview, Texas 75606
(903) 757-6400
(903) 757-2323 (fax)
jw@jwfirm.com

**ATTORNEYS FOR PLAINTIFF
MARSHALL PACKAGING COMPANY, LLC**

CERTIFICATE OF CONFERENCE

This is to certify that counsel is not required to comply with the meet and confer requirement in Local Rule CV-7(h). As of March 10, 2010, none of the defendants have answered or otherwise made an appearance in this case.

/s/ George Scott

CERTIFICATE OF ELECTRONIC SERVICE

This is to certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per LOCAL RULE CV-5(a)(3) today, March 10, 2010. Any other counsel of record will be served by postage paid, certified first class mail, return receipt requested.

/s/ George Scott